

April 7, 2004 BZA



**REQUEST ANALYSIS
AND
RECOMMENDATION**

04AN0213

Ruth F. Kinton and James W. Kinton, Jr.

**Bermuda Magisterial District
Vicinity of 506 Old Bermuda Hundred Road**

REQUEST: A Variance to use a parcel of land which has no public road frontage for dwelling purposes in an Agricultural (A) District.

RECOMMENDATION

Recommend denial of this Variance for the following reasons:

- A.** Staff finds there are no extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the immediate area.
- B.** There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards. It appears that this Variance is based principally on financial consideration.

GENERAL INFORMATION

Location:

This request lies on 2.5 acres located 773.17 feet north of Old Bermuda Hundred Road, measured from a point approximately 290 feet west of Golf Course Road in the vicinity of 506 Old Bermuda Hundred Road. Tax ID 811-651-4577. Access will be across Tax ID 811-651-Parts of 3301, 4325 and 4351 (Sheet 27).

Existing Zoning:

A

Size:

2.5 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - A; Vacant
South - A; Residential
East - A; Vacant
West - A; Residential

Utilities:

Private well and septic system

Transportation:

This request requires the dedication and construction of a public road.

General Plan:

(Consolidated Eastern Area Plan)

Light industrial

DISCUSSION

The applicants request a Variance to use a parcel of land which has no public road frontage for dwelling purposes. The proposed access to the dwelling will be over a private easement from Point A to Point B, as shown on the attached map.

The applicants provide the following justification in support of this request:

We plan to build our new home on this site. This piece of land was part of our parent's land and was given to us in 1975.

The Board of Zoning Appeals hears requests for no public road frontage when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property

owner's immediate family or complies with the plat validation process. In this case, the property was recorded prior to 1980.

Staff visited the property and observed that the subject property and part of the private easement is unimproved. Staff also observed the existing part of the roadway to the subject property is rutted and has numerous potholes. The roadway is approximately eight (8) to twelve (12) feet in width.

The Chesterfield County Fire Department has requested that applicants with this type of request provide a fifteen (15) foot wide, all-weather road from the State maintained road to the dwelling capable of supporting fire equipment and/or ambulances. The road shall have at least a fourteen (14) foot clearance to overhanging objects.

If the Board feels this request has merit, staff recommends that the entire roadway be improved and widened to fifteen (15) feet per attached Conditions 2 and 3 because of the Fire Department's request.

Regulations, such as public road frontage, were established with reasonable consideration of the character of the County with a view toward conserving the value of building upon the land and providing the best possible environment for human habitation. Further, this Variance, if granted, will continue development in this area that will be lacking the necessary infrastructure to ensure the public health, safety and welfare.

Parcels that comply with the road frontage requirement of the Zoning Ordinance and are therefore, in the State system, enjoy State maintenance. The burden of maintaining a State road does not rest on an individual property owner. Public funds are used to build and maintain State roads. By granting this Variance the responsibility of constructing and maintaining the access road becomes the applicants. Staff believes that the access road may not be maintained to the same standards as the public roads. Public funds provide the Virginia Department of Transportation with the resources to efficiently and effectively maintain the public roads. Staff believes that individual maintenance of the access road is impractical to provide for public and private vehicle access.

Additionally, staff believes that the access road may not be maintained with the regularity of a public road. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

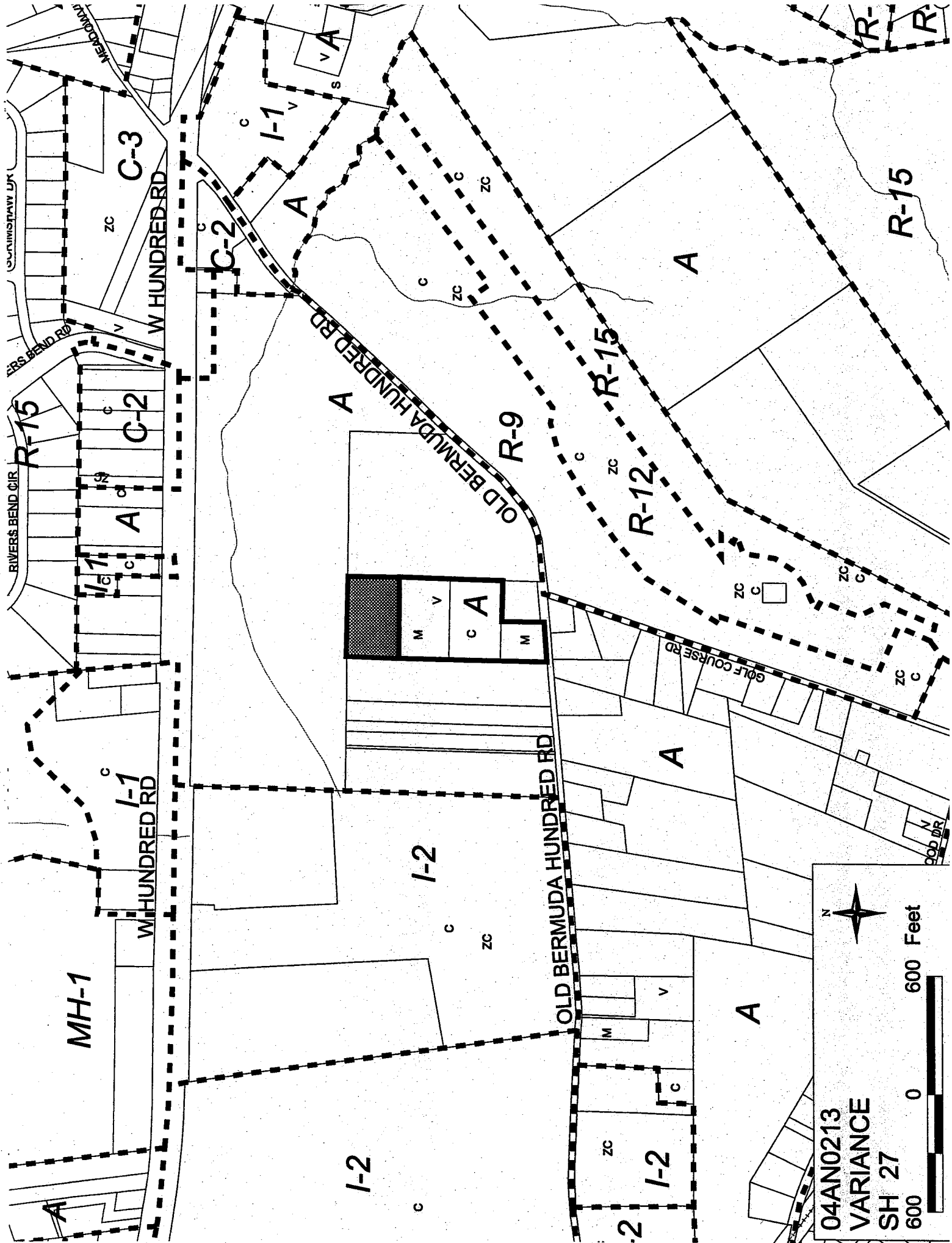
CONDITIONS

1. When the applicant applies for a building permit, the applicant shall provide a copy of a recorded instrument which will include the following:
 - a) A fifty (50) foot wide private access easement from Point A to Point B as shown on the plat attached to the staff report. The instrument shall require that no structure or fence shall be constructed to block the easement and shall

require the land owner of the subject parcel to be responsible for maintenance of the access in accordance with the standards set forth below, or

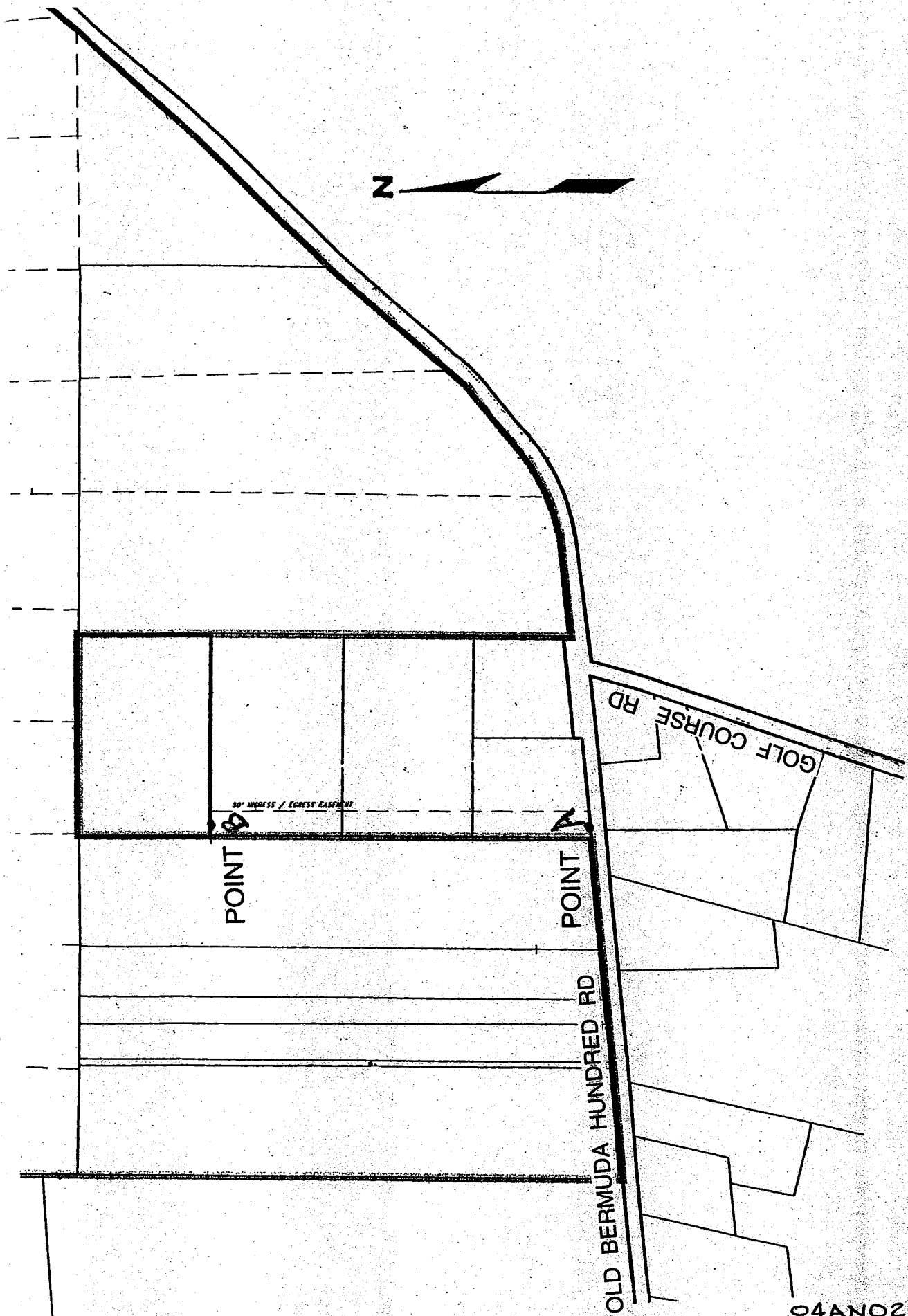
- b) If the access involves the use of a dedicated and unimproved County right of way, the applicant shall provide a copy of the approved license agreement with the County.
2. Within the fifty (50) foot wide private access easement or right of way, a fifteen (15) foot wide roadway shall be constructed and maintained. Prior to issuing a Certificate of Occupancy, the Planning Department and if required, the Fire Department, shall inspect this roadway to determine its compliance with the following standards:
- a) The roadway shall consist of no less than the following: compacted soil subbase with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the subdivision team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
 - b) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
 - c) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
 - d) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection, unless otherwise approved by the Fire Department.
 - e) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
 - f) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
3. The County shall not issue a Certificate of Occupancy for any structure which is located on a roadway not meeting Condition 2 a-f.
4. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.

5. This property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided.



04AN0213
VARIANCE
SH 27

600
0
600 Feet



04ANO213-1